

**CITY OF BROKEN ARROW
PLANNING COMMISSION MEETING
MINUTES
October 9, 2003**

The Planning Commission Agenda for this meeting was posted on October 2, 2003, at 10:30 a.m. on the City Hall Bulletin Board, 220 S. First Street.

1. The Broken Arrow Planning Commission met on Thursday, October 9, 2003, at 5:00 p.m.

2. Present: Robert Goranson, Chairman
Renate Caldwell, Vice Chairperson
Mike Lester, Commission Member
Johnnie Parks, Commission Member
Ricky Jones, Commission Member

Absent None

Staff Present: Farhad K. Daroga, City Planner
Brent Murphy, Assistant City Planner
Karl Fritschen, Staff Planner
Joyce Snider, Admin Ass't
April Parnell, Ass't City Attorney
Joseph Watt, Engineering Dept
Jeff Westfall, Engineering Dept

3. The Commission considered the minutes of the regular Planning Commission meeting held September 25, 2003. **Motion** by Mike Lester to approve the September 25, 2003, minutes as presented. The motion was seconded by Renate Caldwell.

Yes: Jones, Parks, Lester, Caldwell, Goranson

No: None

Motion Approved

4. The Commission considered the Consent Agenda. Farhad Daroga reviewed each item on the Consent Agenda.

4A. PT02-109, DN02-136, Bentley Village Amended conditional final plat, 22 acres, 80 lots, R-3 (BAZ 1448), south side of Jasper Street, one-third mile west of Aspen Avenue, Hall, Rosenbaum & Associates, Inc., (Engineer). **Motion** by Mike Lester to remove Bentley Village Amended from the consent agenda and table this item. The motion was seconded by Johnnie Parks.

Yes: Jones, Parks, Lester, Caldwell, Goranson

No: None

Motion approved.

Motion by Johnnie Parks to approve the Consent Agenda, as recommended by Staff, excluding Item No. 4A. The motion was seconded by Mike Lester.

Yes: Jones, Parks, Lester, Caldwell, Goranson

No: None

Motion approved.

- 4B. PT03-120, DN03-166, Cacy Mini-storage conditional final plat, 24.73 acres, IS, (PUD 133A) (BAZ 1585) northeast corner of 9th Street (Lynn Lane) and the Creek Turnpike, Lewis Engineering, PLLC (Engineer). The applicant was present. This item was approved as recommended by Staff.
- 4C. PT02-130, DN02-218, Washington Lane landscape plan, PUD 135A, R-2, (BAZ 1580) 19.14 acres, 74 lots, ¼ mile south of Washington (91st) Street on the east side of 9th Street (Lynn Lane/177th East Avenue), 2701 South 9th Street, Independent Design Consultants (Engineer). The applicant was not present. This item was approved as recommended by Staff.
- 4D. ST03-135, DN03-166, Cacy Mini-storage site plan, 10.57 acres, IS, (PUD 133A) (BAZ 1585) northeast corner of 9th Street (Lynn Lane) and the Creek Turnpike, Lewis Engineering, PLLC (Engineer). The applicant was present. This item was approved as recommended by Staff.

5. **ITEMS REMOVED FROM CONSENT AGENDA**

4A. See above.

6. The Commission considered SP 175, 15 acres, A-1, application for removal and replacement of a radio tower, one-quarter mile north of Tucson (121st) Street on the east side of Olive (129th East) Avenue, David Ingles Ministries (Applicant). Farhad Daroga presented the background, saying this is the location of Oasis Radio Network, the David Ingles Ministries. He said the applicant wishes to replace their existing 70' tall radio broadcasting tower and replace it with a new 90-foot tower. He said the owner of Little Links Golf, the property to the south, said he had not been notified by written notice of this hearing. Mr. Daroga explained that the boundary of that property was 300-feet from the boundary of this 15-acre site, with a tract of land between the two pieces of property in question.

April Parnell explained that there are two tracts side by side owned by the church, another to the south is owned by the minister and his wife, and the property to the south is owned by Little Links. She said the 300-foot boundary goes to the inside boundary of the property owned by the minister and his wife. Discussion followed. April Parnell said in the opinion of the Legal Department the City is covered by statute and ordinance on the notice requirements, although the Little Links owner does not agree with that opinion. She outlined the Planning Commission's option to continue this matter for a month to allow the Little Links owner time to investigate this. Bob Goranson said if the Legal Department feels there is no problem, he feels there is no problem and the Commission members agreed by consensus to hear this case.

J. R. Donelson, 8410 East 111th Street South, Bixby, representing David Ingles Ministry, said the applicant understands the Staff recommendation and all he wants to do is replace the existing tower. Mr. Donelson said Mr. Ingles thought he could replace the tower once his property was annexed to Broken Arrow. Bob Goranson said the existing tower is grandfathered in but, since the property is zoned A-1, the ordinance does not provide for replacement of the tower and the Planning Commission cannot waive the ordinance and recommend approval. Mr. Donelson said he is aware of that.

David Ingles, 3002 East 83rd, Tulsa, said Little Links is 330 feet from the boundary of the church property on which the tower resides. He said the church is licensed as a non-commercial, educational station. He explained the over-all operation of the radio station, saying he wishes to remove and replace the existing tower with one 20-feet taller for a second STL. He asked that this request be approved.

6. continued

Bob Goranson asked if the tower will be able to receive collocations and will it be landscaped. Farhad Daroga said the tower can have a collocation if it is designed to do so. Bob Goranson asked if the City should require that capability. Farhad Daroga said a lattice type structure is being proposed and it depends on the tower design. Mike Lester asked if the tower will be required to be 120% from the property line and Farhad Daroga said it will. Mr. Ingles said the new site is 20-feet from the original site and will be well within the 120% of the north property line as required and will be 600-feet from the street. Discussion followed. There were no protestants present. Bob Goranson asked April Parnell if Little Links is opposed to this application. April Parnell said she didn't know if they were opposed to the application, they just had an issue with the notice. Bob Goranson said he was just making sure. April Parnell said the only thing Mr. Ingram, the owner of Little Links, discussed with her was the notification. Bob Goranson said he was satisfied.

Johnnie Parks asked if the Commission could forward this matter to the City Council without a recommendation, since they could not approve it under the ordinance requirements. Farhad Daroga said they could.

Motion by Johnnie Parks to forward SP 175 to the City Council without a recommendation. The motion was seconded by Mike Lester.

Yes: Jones, Parks, Lester, Caldwell, Goranson

No: None

Motion approved.

Bob Goranson said this matter will be heard by the City Council in their meeting of November 3, 2003, at 7:00 p.m.

7. The Commission held a public hearing on an Amendment to Article IX of the Broken Arrow Zoning Ordinance, Sign Regulations. Farhad Daroga said the proposed sign ordinance has been distributed to the Planning Commission and reviewed in the Planning Commission meeting of September 25, 2003. Bob Goranson said the underlined and strikeover copy really helped in understanding the proposed changes.

Mike Lester said, because the proposed ordinance was distributed on the Tuesday prior to this meeting and he has not had an opportunity to review it, **moved** to continue this matter to the next Planning Commission meeting to provide the Commission an opportunity to fully review the ordinance. There was discussion and the motion died for lack of a second.

The floor was opened to the public.

Craig Thurmond, 4929 West Commercial, Broken Arrow, talked about the efforts of the committee and said the committee was formed by the City Council on June 2, 2003, and approved the appointment of the members by the Mayor. He said the Mayor appointed the members and the committee was charged with a completion date around the end of July and it took a little longer due to other issues the committee discussed. He said at the last meeting the committee wanted something similar to the landscape ordinance committee which was done six or seven years ago; that committee took 15 months, meeting monthly. This committee met in two-hour meetings, five times. He said the landscape committee had no guidelines, so they took ordinances from all across the country and reviewed them. He outlined the makeup of the landscape committee and said more than half of them lived in Tulsa.

7. continued

He named the staff members that were on the sign committee (6) and talked about the refinements made by staff. He talked about the time given by committee members who live outside of Broken Arrow and said they should be appreciated for the time they gave.

Loretta Belding, 710 West Norman Street, Broken Arrow, said she attended a meeting of the Sign Committee but was not acknowledged or introduced and that bothered her. She said she felt that the issue central to signs was not that they need to be bigger and closer to the street, that the city and the streets should be user friendly. She pointed out difficulties in determining whether streets are north, south, east or west and said we don't need to clog our streets and landscape with bigger signs just because everyone else does it. She said she moved to this area because it is beautiful and now every corner is packed with signs.

Sue Whitaker, 3809 West Vandalia, Broken Arrow, said she served on the Sign Committee. She said, as she left each meeting, she wondered what the reason was for the urgency of the change and if the current sign ordinance is so bad, why is Broken Arrow one of the fastest growing cities in the state and who is going to benefit the most from this change. She said she wishes for every legitimate business in Broken Arrow to prosper, but the way the committee was organized and the fact it was a closed committee, and she said she has the memo that states it was a closed committee, weighed heavily on her mind. She showed pictures of commercial signs from various cities that she said were examples of good and bad signs. She asked how signs are maintained and showed examples of signs in disrepair. She asked about the goals of the city and asked the Commission not to act until further input was received.

Ricky Jones asked if the city has a copy of the memo that Sue Whitaker mentioned and asked if he could see it. Mr. Whitaker gave a copy to Ricky Jones.

Bob Goranson said he would like to get beyond the committee issues and deal with the proposed ordinance. Ricky Jones agreed.

Ron Whitaker, 3809 West Vandalia, Broken Arrow, said he is pro-business and nothing he says should be construed otherwise. He said he believes the city needs to be business friendly and the ordinance needs to be changed, but there is no need to be radical as the proposed ordinance. He said the current ordinance has been in effect for 14 years and has served very well, since the city's growth has been phenomenal. He quoted statistics regarding sales tax growth and talked about the method by which the committee was formed and the changes made in the proposed ordinance regarding banners and temporary signs. He said the ordinance was hard to read and understand and is written for large businesses, not small businesses. He talked about the various signs and their readability and visibility. He asked for inclusion in the ordinance of definitions of terms and table that shows by the LUIS (Level of Intensity System of the Comprehensive Plan) what is permitted in each zone to make it easy for business people to read and talked about the methods used by businesses to attract clients. He expressed concern regarding allowing signs in utility easements and talked about other issues of concern to him and asked that the ordinance be tabled for more input.

Bob Hutchins, Rocket Brothers, 1021 N. 9th Street, (Kenosha Crossing) Broken Arrow, said the issue appears to be tasteful signs that promote small business and said the city is growing because of geographical constraints on the metropolitan area, a great freeway system that allows easy access, not because people are reading the signs, but businesses will do better with effective signage. He talked about the most effective signs with the most visibility for small businesses to install in order to compete with the larger businesses.

7. continued

Ted Allison, President, Broken Arrow Chamber of Commerce, said he serves as the city's primary economic development practitioner and has had many opportunities to speak with representatives of businesses considering doing business in the city and those already doing businesses in Broken Arrow and the issues discussed, including negative comments regarding the restrictions of the sign ordinance, which put small business at a disadvantage. He thanked to Sign Committee members for their efforts and encouraged the Commission to take action to help small businesses and suggested flexibility in regard to monument signs which contain a number of business names.

Allen Stanton, Chief Building Inspector, Code Enforcement Director, City of Broken Arrow, participant in the Sign Ordinance, said the general consensus of city staff is that the present document reflects how it can be enforced. He said it contains a formula for determining sign height and it was condensed to make it less confusing and quicker to read. He talked about the language in the ordinance regarding banners and mobile signs and said the LUIS reference was removed to simplify the paper work related to sign permits. He said staff took the reference to C-1 restricting pole signs out to enable a C-1 property to install pole signs and clarified the reasons for other language in the ordinance. He talked about the efforts of staff to clarify and shorten the language of the ordinance.

Johnnie Parks said the redlined copy helped him to understand the contents of the ordinance better.

David Bouchard, 1409 South Narcissus, Braums, Broken Arrow, spoke in favor of signs closer to the street and said his business is putting another sign to be more visible.

Mark Clark, 13725 South Nissa Court, Glenpool, representing Clark Signs, said his main business is courtesy benches and talked about the difficulties small businesses have in advertising. He outlined the uses of courtesy benches in that regard and talked about providing seating for residents in various areas which would also provide income for the city.

Ralph Sigler, 11905 South Juniper Court, Jenks, spoke about his role on the Sign Committee and defended himself against the comments regarding his motives in being on the Sign Committee.

Bob Goranson said Mr. Sigler's place of residence and profession are not important, what was important was that he cared and he knew that Mr. Sigler cared.

Mr. Sigler described how he came to be appointed to the committee, saying he had a small working relationship with Craig Thurmond prior to his election to the City Council and helped him develop the signage for a professional location on 71st Street. He said he cares about signs and the city. He talked about signs in other cities and the ones shown tonight and the one in the Laurenwood Center, which he said may be non-compliant. Farhad Daroga said that center is in a PUD and the sign is compliant. Mr. Sigler talked about a proposed Red Robin restaurant and the sign involved and other signs in the area. He read the requirements of the present sign code in relation to setbacks and talked about the results of those requirements.

Bob Goranson said the present sign ordinance does need to be looked at and he had no problem with the structure and format of the proposed ordinance. He asked Mr. Sigler if he had looked at Mrs. Whitaker's comments and compared them to the proposed sign. He said he thought there was a happy medium that could be agreed upon and there isn't a reason for radical change. Mr. Sigler said he had read Mrs. Whitaker's comments. Discussion followed regarding various sign requirements, clutter caused by banners and clutter that will be caused by the proposed ordinance. Mr. Sigler showed pictures of signs and talked about their location and specifications.

7. continued

Bob Goranson asked if there is anything in the code about maintaining signs and Mr. Sigler said there is not, nor is there anything about taking of signs. Discussion followed.

Mike Lester asked to what Mr. Sigler attributed the growth of Frisco, Texas which has a restrictive sign ordinance. Mr. Sigler talked about the growth of Frisco.

Johnnie Parks said he appreciates the work done by the Sign Committee, what he is concerned about is the makeup of the committee, that different types of people should have been represented on the committee. He said he thought there should be some changes in the sign ordinance, but they don't have to be radical changes and this ongoing discussion could have been avoided.

Ricky Jones said the Sign Committee and staff did an outstanding job and, yes, he was in a hurry. He said there will always be people for and against every issue and recommended that the Commission forward the ordinance to the City Council. Discussion followed regarding the brief time the Commission has had to look at the ordinance and their obligation to review it.

Motion by Mike Lester to continue the public hearing on the proposed ordinance to the meeting of October 23, 2003. The motion was seconded by Johnnie Parks.

Bob Goranson asked if anyone in the audience has received a copy of the proposed ordinance and two people raised their hands. Mr. Goranson asked that the ordinance be made available to the public and placed on the internet.

Tony Petrik, 717 West Park Blvd, Broken Arrow, asked that Mrs. Whitaker's comments also be placed on the Internet. He said his concern with this proposal is that it is so one-sided. He said the people of Broken Arrow were not invited to participate and that he had been told the meetings were closed by order of the Vice Mayor and the people of Broken Arrow don't know what this is. Bob Goranson said there should be a way for people to comment. He asked for advice on how to proceed with a motion on the floor.

April Parnell said the discussion should be related to the motion on the floor and explained that the motion could be withdrawn or amended.

Mike Lester, with the consent of the second, amended his motion to include the placement of Mrs. Whitaker's comments on the Internet and a way for people to comment.

Ted Allison said he has not seen Mrs. Whitaker's comparison and he would like to, and people have asked him for a grid comparison between the existing and proposed sign ordinances and the City of Tulsa. He urged that the ordinance be acted on as soon as possible. Discussion followed.

Farhad Daroga said the City Manager, after the Chamber of Commerce meeting, requested that Staff prepare a chart comparing Tulsa, Broken Arrow existing ordinance and proposed ordinance and that will be ready for the next meeting.

Bob Goranson said when it is put on the Internet to make sure it is not hidden, that it is put on the home page where everyone can see it.

7. continued

Renate Caldwell said the Commission needs to have the final draft.

The motion to continue the public hearing and place the foregoing material on the Internet was approved by the following vote

Yes: Jones, Parks, Lester, Caldwell, Goranson

No: None

Motion approved.

8. The Commission held a public hearing on an Amendment to Article V (chart), Article VI, Section 4 (R-2), Section 5 (R-3), of the Broken Arrow Zoning Ordinance, pertaining to Side Yard Requirements, and on an:
9. Amendment to Article VI, Section 6 (R-4), Section 7 (R-5), pertaining to side yards for single-family detached residences.

The two items were discussed as one item.

The chair opened the floor to the public. No one came forward.

Mike Lester said as we look at the cities that have gone to 5' and 5' side yards, the thing that struck him is that the two primary area cities besides Catoosa are Broken Arrow and Owasso, who happen to be the two fastest growing cities in Oklahoma, so he wondered why we want to get away from that. The other thing is, that if we go to 5' and 5', then the possibility of existing houses building closer in to the 5' in their side yard is a present danger too and he didn't see what benefit that has for the citizens of Broken Arrow.

Bob Goranson said he thought 5' and 5' is a disservice to the people and said bigger lots could be built rather than smaller side yards.

Ricky Jones said he is in favor of the 5' and 5' side yards and if you look at the chart, what we are competing against is other cities, he agrees that PUD is one avenue to make that available, and there is also the availability of going to the Board of Adjustment and ask for a variance, which would require showing a hardship. He said he thought it would give the citizens and the builders another option. He said in a new subdivision, with 60' wide lots, if 5' and 5' are allowed, they still have the opportunity of building 10' and 5', they don't have to build 5' and 5'. Discussion followed regarding whether 5' and 5' are being requested, the flexibility provided by this choice and the choice of using the PUD process or straight zoning.

Johnnie Parks said this is an important step for the city of Broken Arrow, that other cities are competing with Broken Arrow, which is a strong community and a fast-growing one and we should set the example, not be a follower. He said what is being proposed is that R-2, R-3, R-4 all be allowed to have five-foot side yards on each side, if we want to compete with other communities, they do not allow 5' by 5' in R-2 zoning. He said he thought this step is getting away from a quality community, we are doing away with green areas within the lots themselves and he is adamantly opposed to having 5' x 5' side yards in the R-2 zoning district and in R-3. He said he thinks it goes far beyond what the rest of those who want to compete with other communities would like.

8 & 9. continued

Ricky Jones asked Johnnie Parks if he is against 5' and 5' in the R-4 district and Johnnie Parks said he has voted for it in a PUD when he could see what the project looks like and that is the only time he is in favor of it. He said he knows the Planning Commission is a recommending body.

Bob Goranson again asked if anyone present wished to address the Planning Commission on this issue.

J. D. Harp, 11703 S. Canton Avenue, Tulsa, said he is a builder and developer and Bentley Village is a subdivision for which he requested 5' and 5' side yard setbacks. He said there is an affordability gap between people who can live on 70 and 80-foot lots and people who need to live on 60-foot lots. He talked about different kinds of buyers, their needs and their desires and the reasons for the need for 5' and 5' side yards. He said as far as existing subdivisions, they are covered by covenants. Discussion followed.

Phil Roland, 11960 South 266th East, Coweta, said the PUD aspect penalizes young buyers who need homes the most and they have a lot of stuff to put in their garages. He said he would appreciate the Commission's consideration in granting 5' and 5' side yard setbacks.

Ricky Jones said requiring 5' and 5' side yards to be in PUDs make the Planning Commission's decision subjective and said straight zoning is the better way to go. Discussion followed.

Shirley Miller, 2601 West Commercial, Broken Arrow, said straight zoning for 5' and 5' means that every home built in R-2 would be subject to that, which means that probably every R-2 built would be built 5' and 5'. She said individuals do not build houses in this town, developers build them, and they will go to 5' and 5' if it is universal. She said not every subdivision has covenants, nor do they have mandatory homeowners associations. She said hers does not and asked, can someone build right next to her. She said the point is it is made universal, and she didn't think that is the best thing for Broken Arrow. Bob Goranson said he agreed with her.

Bob Goranson suggested that if 5' and 5' is desired, the City Planner has suggested that a new category be created. He talked about the R-1S created some years past to provide a category between R-1 and R-2.

Farhad Daroga said a new category, R-3S, could be created and existing plats would not be able to build 5' and 5', it would only be used in new subdivisions. It would be the same density, but the side yards would be 5' and 5'. That will require everything built up to now would then have to stick with 5' and 10' side yards. He talked about the issues involved. Discussion followed.

Ricky Jones said that would make the decision of the Planning Commission subjective.

April Parnell said all the decisions the Planning Commission and the City Council make must be backed up with reasonable explanation for denial and cannot be arbitrary and capricious; they must be defensible in a court of law with reasons that can be articulated. She said that is true of all decisions. Discussion followed.

8 & 9. continued

Allen Stanton said the zoning change in 1984 was due to an enforcement issue, RV parking in driveways and yards causing problems with grease spots in the driveways and in the street. The issue was brought to the City Council because the people were not able to get their RVs and boats into the side and rear yards. He asked that if the Commission looks at a new category, that they also look at changing the 20% rear yard to 20-foot minimum. He said he gets many requests for patio covers that are denied and may be being built without a permit. Ricky Jones asked if Allen has seen the Tulsa ordinance regarding RVs and Allen Stanton said he had not looked at it recently.

Johnnie Parks asked if Allen Stanton asked if he saw an enforcement problem in an R-3S zone and Allen said he did not. Discussion followed.

The Commission discussed the possibility of a new zoning category and whether it should include R-4 or R-5. Johnnie Parks said he would want a letter from the Fire Marshal saying they have no problem with 5' and 5' setback. April Parnell said she had spoken to the Fire Chief and he had no problem with that.

Ricky Jones said if you look at what the City Council has done with related cases sent to them, he thought it is clear that they want 5' and 5'. Discussion followed.

Ricky Jones said he would make a motion to approve it (5' and 5' side yards) and whether it passes or not, send it to the City Council. Let them decide if they want to make the R-3, 4, S, 2S, before the Commission goes through this whole exercise, put Staff through a whole bunch of work on making this, and it may be sent up there and they may deny that. Discussion followed.

Motion by Ricky Jones to approve it (allowing 5' and 5' side yards) as presented by Staff. The motion was seconded by Renate Caldwell.

Yes: Jones, Caldwell

No: Parks, Lester, Goranson

Motion failed.

Motion by Johnnie Parks to send this back to Staff to compile a recommendation regarding R-3S and on the R-4 and R-5 looking at the setback as discussed by the Commission at this meeting. The motion was seconded by Mike Lester.

Bob Goranson clarified that the public hearing is still open and the Commission is within the bounds of the public hearing notice. April Parnell said what is before the Commission is changing the zoning having to do with R-2, R-3, R-4, and R-5 and the Commission is just taking a different avenue on how that should be changed. Discussion followed.

The Commission voted on the motion.

Yes: Parks, Lester, Goranson

No: Jones, Caldwell

Motion approved.

10. **DISCUSSION ITEMS**

Farhad Daroga said the Chamber of Commerce retreat is two-weeks from today and asked who plans to attend. All members except Johnnie Parks said they would attend.

10. continued

Bob Goranson said he missed the bond issue meeting and asked if any of the Commissioners attended. No one had. Farhad Daroga outlined the committees that were formed.

11. **REMARKS, INQUIRIES AND COMMENTS BY PLANNING COMMISSION AND STAFF**
NO ACTION

None.

12. **Motion** by Mike Lester at 8:23 p.m. to adjourn. The motion was seconded by Ricky Jones.
Yes: Jones, Parks, Lester, Caldwell, Goranson
No: None
Motion approved